

Application No. 09/921,844  
Amendment dated October 9, 2007  
Reply to Office Action of July 9, 2007

### **REMARKS**

Applicant amended independent claims 131 and 219 to further define Applicant's claimed invention. Support for the amendment to independent claims 131 and 219 can be found at least on page 14 of the specification and in FIGS. 12-15 of the application.

In the Office Action, the Examiner allowed independent claim 1 and claims 3, 5, 19-51, and 259-271, dependent from claim 1 and claims dependent therefrom.

The Examiner objected to claim 131, stating that "said second having a perimeter should be -said second facet having a perimeter- as supported by applicant's arguments." (Office Action, page 2). Applicant respectfully submits that claim 131, as amended in Applicant's previous submission, does read "said second facet having a perimeter." (See Amendment dated May 30, 2007, page 7, line 22).

The Examiner objected to the specification for failing to provide antecedent basis for the claimed subject matter. Applicant amended the specification to provide antecedent basis for the claimed subject matter.

The Examiner rejected claims 131 and 219 and their depending claims under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Attached hereto are copies of Applicant's Fig. 14 (Exhibit A, page 1 of 2) and Fig. 15 (Exhibit A, page 2 of 2), enlarged and labeled to show the pertinent elements of independent claims 131 and 219 for the Examiner's reference.

Regarding claim 131, the Examiner asserts that "the plane in which the included angle is not defined" and that "[w]ithout defining said plane, the included angle between facets varies." (Office Action, page 4). Applicant respectfully submits that one of ordinary skill would understand the scope of claim 131 without the need for defining the plane in which the included angle lies. FIG. 14 of Exhibit A shows that rearward facet 326 includes a perimeter, which from the end view shown in FIG. 14 is in the shape of a triangle. The perimeter of rearward facet 326 has a first side and second side being in a convergent relationship to each other and having an included angle greater than 90 degrees therebetween. As shown in FIG. 14 of Exhibit A, converging sides of the perimeter of rearward facet 326 have only one included angle greater than 90 degrees therebetween.

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Regarding claim 219, Applicant respectfully disagrees with the Examiner's position "that applicant has it backward, the second angle is greater than the first." (Office Action, page 3). FIG. 14 of Exhibit A shows that first and second sides (marked by thick lines) of the perimeter of rearward facet 326 have a converging relationship to each other and a first included angle therebetween proximate peak 336. Similarly, first and second sides (marked by thick lines) of the perimeter of forward facet 324 have a converging relationship to each other and a second included angle therebetween proximate peak 336. As shown in FIG. 14 of Exhibit A, the first included angle is greater than the second included angle.

The Examiner asserts that "the plane in which the included angle is not defined" and that "[w]ithout defining said plane, the included angle between facets varies based on the angle of the plane." (Office Action, page 3). Applicant respectfully notes that claim 219 does not claim an included angle "between facets" as contended by the Examiner. Claim 219 recites "said rearward facet having a perimeter with a first side and a second side, said first and second sides of said perimeter being in a convergent relationship and having a first included angle therebetween proximate said peak, said forward facet having a perimeter with a first side and a second side, said first and second sides of said perimeter being in a convergent relationship and having a second included angle therebetween proximate said peak." FIG. 15 of Exhibit A shows that only one angle included between two converging sides of rearward facet 326 is proximate peak 336 and that only one angle included between two converging sides of forward facet 324 is proximate peak 336. Thus, one of ordinary skill would understand the scope of claim 219 without the need for defining the plane in which the included angles lie.

In response to the Examiner's questions on page 3, lines 16-18 and page 4, lines 3-5 of the Office Action, Applicant respectfully submits that the "included" angles recited in independent claims 131 and 219 are not between the forward or rearward facets and the base of the facet (upper and lower surface of the implant). As set forth above, the recited included angles are between two converging sides of the perimeter of the rearward facet and between two converging sides of the perimeter of the forward facet.

Applicant submits that the Examiner's rejections under 35 U.S.C. § 112, second paragraph, have been overcome.

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The Examiner rejected claims 131 and 219 and their depending claims (at least 131, 133, 135, 137-145, 205, 206, 213-215, 219, 228-254, 272-276, and 277-284) under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,258,125 to Paul et al. ("Paul").

Applicant amended independent claim 131 to recite "said second facet having a perimeter with a first side and a second side, said first and second sides of said perimeter being in a convergent relationship to each other and having an included angle greater than 90 degrees therebetween." Paul does not disclose or suggest such structure. The Examiner asserts that "the longer facet (left side in figures 9 and 10A) forms an angle greater than 90 degrees." (Office Action, page 6). Applicant respectfully notes that independent claim 131 does not recite included angles between two facets of a projection or between a facet and the surface of the implant. In Paul, none of the facets of teeth 12 have a perimeter with two sides of the perimeter being in a convergent relationship to each other and having an included angle therebetween greater than 90 degrees as recited in independent claim 131. (See Paul, Figs. 6, 9, 10A).

Applicant amended independent claim 219 to recite "said rearward facet having a perimeter with a first side and a second side, said first and second sides of said perimeter being in a convergent relationship and having a first included angle therebetween proximate said peak, and said forward facet having a perimeter with a first side and a second side, said first and second sides of said perimeter being in a convergent relationship and having a second included angle therebetween proximate said peak, said first included angle being greater than said second included angle." Paul does not disclose or suggest such structure.

Applicant respectfully disagrees with the Examiner's position "that applicant has it backward, the second angle is greater than the first" for at least the reasons set forth on page 16 above in addressing the rejection under 35 U.S.C. § 112, second paragraph. The Examiner states that "the shorter facet (right side in figures 9 and 10A) forms a smaller angle with the side facets whereas the longer facet (left side in figures 9 and 10A) forms a larger included angle with said side facets." (Office Action, page 5). Applicant respectfully notes that independent claim 219 does not recite included angles between two facets of a projection or between a facet and the surface of the implant.

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Figs. 1, 4, and 6 of Paul show that the included angle between two converging sides of the perimeter of the forward facet proximate the peak of tooth 12 is identical to the included angle between two converging sides of the perimeter of the rearward facet proximate the peak of tooth 12. Fig. 9 of Paul only shows the included angle between two converging sides of the perimeter of the forward facet proximate peak of tooth 12 and does not show the included angle between two converging sides of the perimeter of the rearward facet proximate the peak.

Applicant submits that the Examiner's rejections under 35 U.S.C. §§ 102(b) and 103(a) have been overcome.

Applicant submits that independent claim 131 and 219 are patentable and that dependent claims 131, 133, 135, 137-145, 203-209, 206, 213-215, 219, 228-254, and 259-284 dependent from independent claim 131 and 219, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, It is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: October 9, 2007

By: 

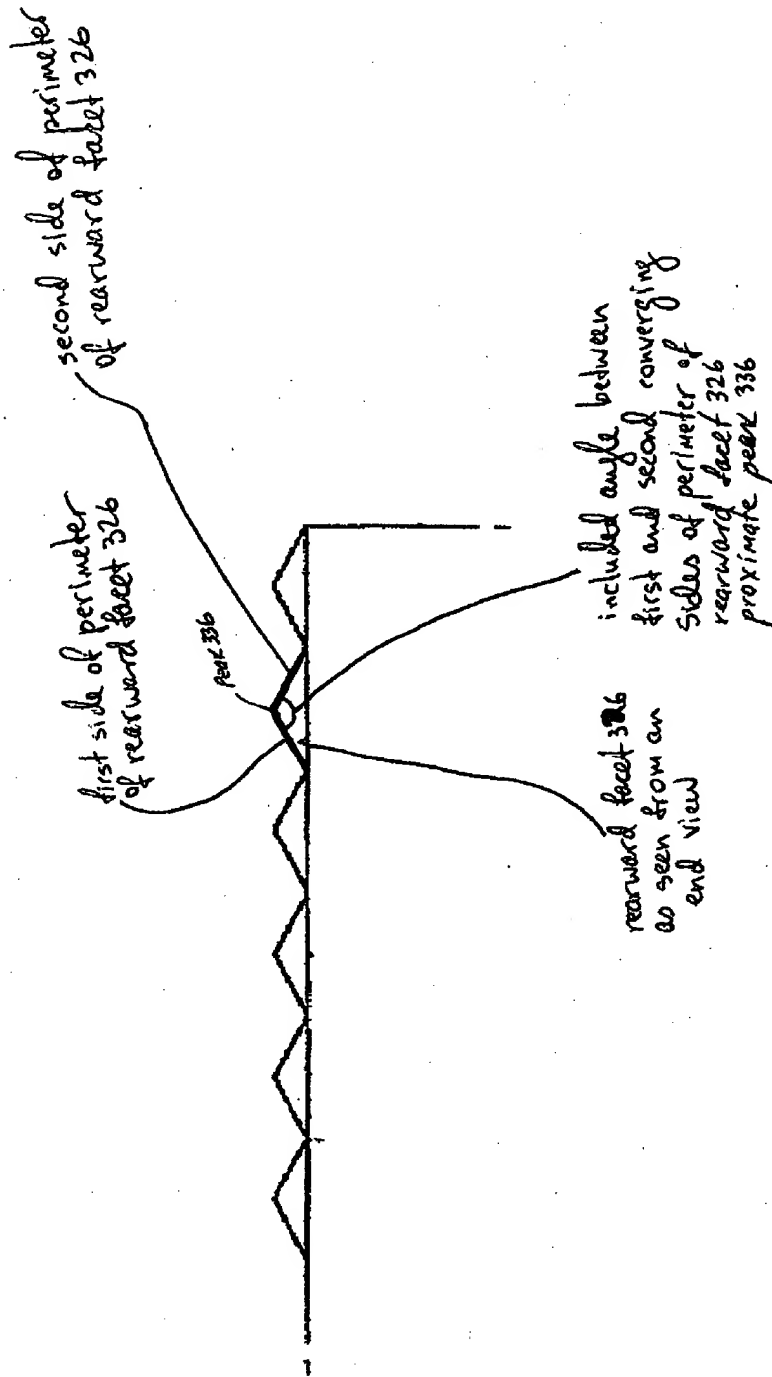
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# Exhibit A

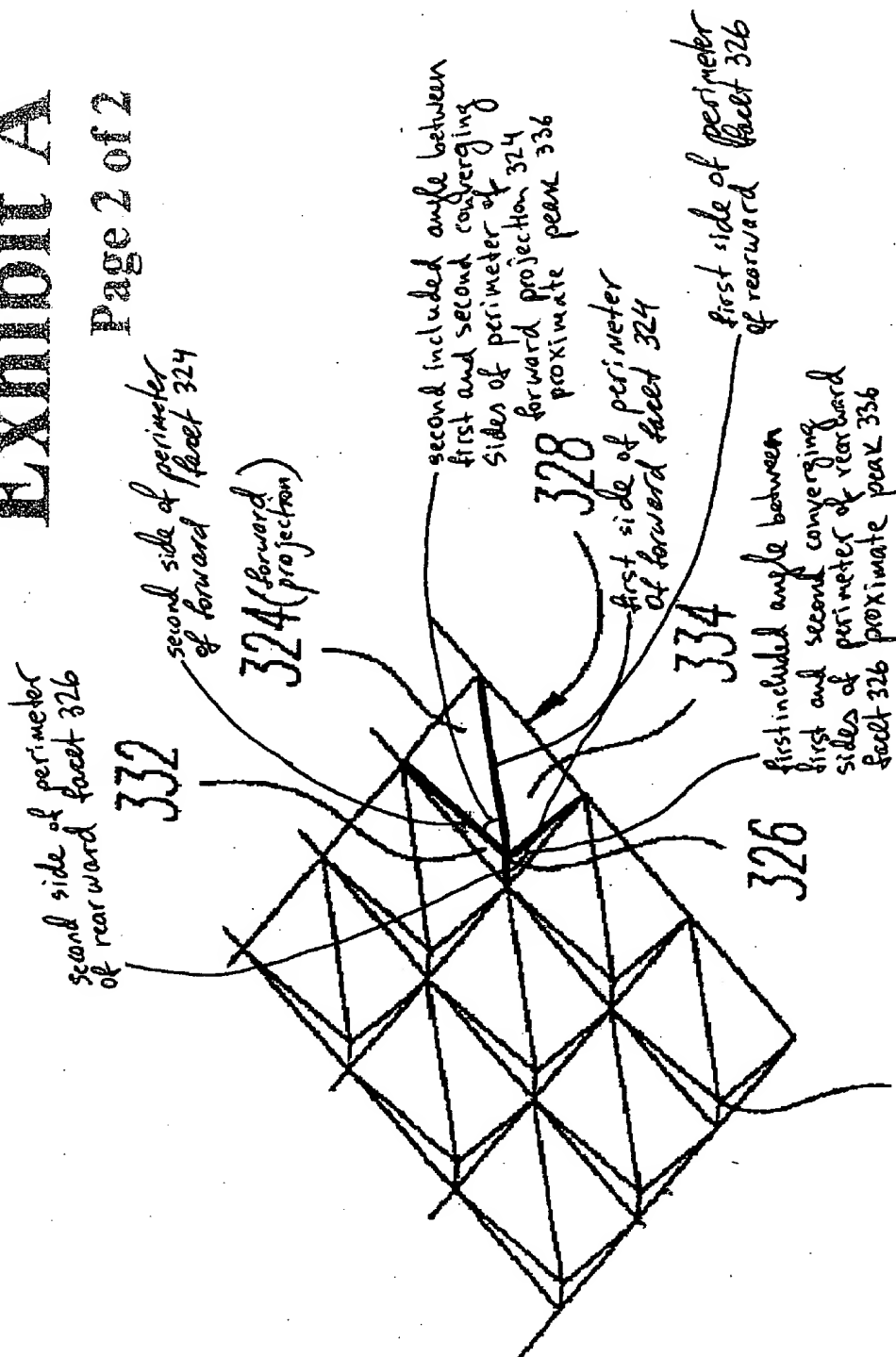
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Not A Replacement Sheet

# Exhibit A

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